

**IN THE INCOME TAX APPELLATE TRIBUNAL
"D" BENCH, MUMBAI**

**MS. PADMAVATHY S, ACCOUNTANT MEMBER
SHRI RAHUL CHAUDHARY, JUDICIAL MEMBER**

**ITA No. 2411/MUM/2024
(Assessment Year: 2012-13)**

Mohamed Akbar Husain Ahmed

77 Pedru Shah Baba Dargah, Palton Road,
G.P.O, Mumbai - 400001
[PAN: AIMPK2304D]

..... **Appellant**

Vs

Income Tax Officer, Ward 25(2)(1)

Kautilya Bhavan, G Block BKC, Bandra Kurla
Complex- Bandra (East), Mumbai - 400051

..... **Respondent**

Appearance

For the Appellant/Assessee : Shri Sunil M. Makhija
Ms. Manisha Gind
For the Respondent/Department : Shri Nayanjyoti Nath

Date

Conclusion of hearing : 22.07.2024
Pronouncement of order : 30.07.2024

ORDER

Per Rahul Chaudhary, Judicial Member:

1. By way of the present appeal the Assessee has challenged the order dated 15/12/2023, passed by the National Faceless Appeal Centre (NFAC), Delhi, [hereinafter referred to as the '**CIT(A)**'] for the Assessment Year 2012-13, whereby the Ld. CIT(A) had dismissed the appeal of the Assessee against the Assessment Order, dated 28/12/2019, passed by the Income Tax Officer - 17(2)(3), Mumbai under Section 147 read with section 143(3) of the Income Tax Act, 1961 (hereinafter referred to as 'the **Act**').
2. When the appeal was taken up for hearing the Learned Authorized Representative for the Appellant submitted that the CIT(A) had dismissed the appeal for non-prosecution. He further submitted

that the CIT(A) had also given finding on the merits. However, the submissions filed by the Appellant before the CIT(A) have not been taken into consideration. Contrary to the material on record, the CIT(A) has recorded that no submissions have been filed by the Appellant. In support of the aforesaid submission, the Learned Authorized Representative for the Appellant placed reliance on letters dated 28/01/2020, 18/02/2020, and 17/03/2020 [*placed at page, 70 to 89 of the paper-book*] filed by the Appellant before the CIT(A). The Learned Departmental Representative could not controvert the aforesaid averments/submission made by the Learned Authorized Representative for the Appellant.

3. On perusal of the order passed by the CIT(A), we find that the appeal before the CIT(A) was filed in physical form and thereafter, the same was migrated to the National Faceless Appeal Centre (NFAC) pursuant to the Notification dated 25/09/2020 issued by the Central Board Of Direct Taxes (CBDT). It appears its submissions filed in physical form were not made electronically available to the NFAC. The Appellant also did not respond to the notices issued by the NFAC and therefore, the order was passed by the CIT(A) without taking into consideration the letters/submissions already filed by the Appellant in physical form. Given the aforesaid fact and circumstance of the present case, we deem it appropriate and in the interest of justice, to set aside the order passed by the CIT(A) and restore the appeal back to the file of the CIT(A) for adjudication after taking into consideration the submissions already filed by the Assessee. This Appellant also directed to file electronically a copy of the submissions filed in physical form. Since the appeal is restored back to the file of the CIT(A) all the rights and contention of the Appellant are left open. In terms of the aforesaid, Ground No. 1 raised by the Appellant is allowed, and Ground No. 2 to 12 raised by the Appellant are dismissed as being infructuous.

4. In result, in terms of paragraph 3 above, appeal preferred by the Assessee is allowed for statistical purposes.

Order pronounced on 30.07.2024.

Sd/-
(Ms. Padmavathy S)
Accountant Member

Sd/-
(Rahul Chaudhary)
Judicial Member

मुंबई Mumbai; दिनांक Dated : 30.07.2024
Poonam Mirashi,
Stenographer

आदेश की प्रतिलिपि ँ ग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त/ The CIT
4. प्रधान आयकर आयुक्त / Pr.CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई / DR, ITAT, Mumbai
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

उप/सहायक पंजीकार /(Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण, मुंबई / ITAT, Mumbai